

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CHARMING BEATS LLC,

Misc.,

v.

AUDIOMACK INC.,

Misc.
-----X

Index No.: 21-mc-733

**DECLARATION OF RICHARD
GARBARINI**

I, Richard Garbarini, hereby declare pursuant to 28 U.S.C. § 1746, and under the penalties of perjury, as follows.

1. I am counsel to miscellaneous party Charming Beats LLC in this matter and am fully familiar with all facts set forth herein.

2. Charming Beats LLC made four requests to Audiomack Inc. to remove infringing content pursuant to 17 USC § 512 (the Digital Millennium Copyright Act or “DMCA”).

3. Three of the DMCA Take-Down requests were submitted via Audiomack Inc.’s on-line form. See, e.g., **Exhibit 1**.

4. Audiomack Inc. acknowledged one of the DMCA Take-Down requests filed through its on-line form, and represented the content was removed. See **Exhibit 1**.

5. The fourth DMCA Take-Down request was formally served by certified mail. See **Exhibit 2**.

6. On October 7, 2021, a Notice of Litigation and Demand to Cease-and-Desist regarding the Infringing Content, which was re-uploaded to Audiomack Inc.’s digital platform located at <www.audiomack.com>.

7. Audiomack Inc. removed the infringing content after service of the October 7, 2021 Notice and Demand.

8. Charming Beats now seeks to serve the attached subpoena on Audiomack Inc., seeking to obtain the identity of the uploader, and the date the infringing content was uploaded. See **Exhibit 3 -- Proposed Subpoena**.

9. The declarant swears under the penalty of perjury that the information requested will be used solely for the purpose of protecting Charming Beats LLC's rights under U.S. copyright law.

10. Plaintiff requests the Clerk of this Honorable Court issue the attached subpoena pursuant to Section 512(h) of the DMCA.

11. I declare under the penalty of perjury that the forgoing is true and correct.

EXECUTED ON

October 15, 2021


Richard Garbarini